

SERVICE DATE – JANUARY 27, 2005

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42084

CF INDUSTRIES, INC. v. KANEB PIPE LINE PARTNERS, L.P.
and KANEB PIPE LINE OPERATING PARTNERSHIP, L.P.

Decided: January 26, 2005

In a decision served August 12, 2004, the Board ordered Kaneb Pipe Line Partners, L.P. and Kaneb Pipe Line Operating Partnership, L.P. (collectively, Kaneb), to reduce the rates charged to CF Industries, Inc. (CFI), for the pipeline transportation of anhydrous ammonia to the level the Board previously prescribed in CF Industries Inc. v. Koch Pipeline Company, L.P., STB Docket No. 41685 (STB served May 9, 2000), aff'd sub nom. CF Industries, Inc. v. STB, 255 F.3d 816 (D.C. Cir. 2001). The Board also asked for more information in its August 12 decision to determine whether to vacate the prescription for future transportation, and established a procedural schedule (which was subsequently modified) governing its submission. The submission of pleadings pursuant to that procedural schedule, as modified, was completed when Kaneb filed its rebuttal on October 15, 2004. However, certain discovery issues remained unresolved, including a motion to compel submitted by CFI on October 6, 2004.

In a decision served November 23, 2004, the Board directed the parties to discuss and attempt to resolve the disputed discovery requests before bringing them before the agency. On December 10, 2004, CFI and Kaneb jointly filed a status report on discovery, stating that the discovery dispute had been resolved except for one remaining matter at issue, and asked the Board to schedule a discovery conference to help them resolve this final issue.

Board staff conducted the requested conference on December 20, 2004, at which the parties narrowed the matter in dispute and agreed to confer further in an attempt to resolve it. CFI subsequently notified the Board that the parties had resolved the discovery dispute and, thus, that the Board did not need to issue a decision on CFI's motion to compel.

On December 21, 2004, CFI and Kaneb filed a letter with the Board outlining a procedural schedule to govern their own discovery requests and replies in this proceeding. The letter also noted that it might be necessary to file supplemental briefs after the discovery process was completed, and stated that, if supplemental briefs became necessary, the parties would file a joint motion seeking permission to submit them.

On January 21, 2005, CFI and Kaneb jointly filed a motion asking the Board for permission to file supplemental briefs pursuant to a proposed schedule they had agreed upon. Pursuant to that schedule, CFI is to file a supplemental brief by February 4, 2005, and Kaneb is to file its rebuttal by February 18, 2005.

The request and the proposed schedule are reasonable. The additional pleadings will provide the Board with a more complete picture of CFI's and Kaneb's arguments. Accordingly, the joint motion will be granted.

It is ordered:

1. CFI's supplement to its October 7, 2004 reply evidence is due February 4, 2005.
2. Kaneb's rebuttal to CFI's supplemental evidence is due February 18, 2005.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary